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MEMO ENDORSED

April 20, 2020

VIA CM/ECF

The Honorable Lewis A. Kaplan
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007

**Re: *Hou Liu, et al. v. Intercept Pharmaceuticals, Inc., et al.*, No. 1:17-CV-07371
(LAK)**

Dear Judge Kaplan:

We represent Lead Plaintiffs Hou Liu and Amy Fu in connection with the above-captioned action. Pursuant to Your Honor's Individual Rules of Practice, Lead Plaintiffs respectfully submit this letter motion for an extension of the time to submit their motion for reconsideration of the Court's motion to dismiss order or, alternatively, permission to file an amended complaint, pursuant to Local Rule 6.3 and Rules 59(e) and 60(b) of the Federal Rules of Civil Procedure (the "Motion").

As Your Honor is aware, on March 26, 2020, the Court issued an order dismissing Lead Plaintiffs' Amended Class Action Complaint in its entirety ([ECF No. 91](#)); and on the following day the Clerk of the Court entered a judgment dismissing the complaint ([ECF No. 92](#)).

Lead Plaintiffs intend to file a motion for reconsideration of the Court's motion to dismiss order, which based upon Local Rule 6.3 and [Fed. R. Civ. P. 59\(e\)](#), is due on April 24, 2020. However, in light of the current health crisis in the United States caused by the COVID-19 pandemic, resulting health issues for one of the attorneys on the team as well as their family, and the shut-down of businesses in New York City due to Governor Cuomo's New York State on PAUSE executive order, Lead Plaintiffs believe that good cause exists to extend the filing deadline for the Motion by fourteen (14) days, to May 8, 2020.

This is Lead Plaintiffs' first request for an extension of time. Lead Plaintiffs conferred with Defendants regarding the extension request, and Defendants do not consent to request, "We cannot agree to an extension of time for Plaintiff to file a motion for leave to file yet another



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amended complaint. While we are certainly sensitive to ‘the current state of the world’ in light of the COVID-19 pandemic, our clients are determined to get this case concluded. The original complaint was filed more than 2 ½ years ago. Plaintiff has had more than ample time to draft an amended complaint.”

“The proper time for a plaintiff to move to amend the complaint is when the plaintiff learns from the District Court in what respect the complaint is deficient. Before learning from the court what are its deficiencies, the plaintiff cannot know whether he is capable of amending the complaint efficaciously.” *Cresci v. Mohawk Valley Cmty. Coll.*, 693 F. App’x 21, 25 (2d Cir. 2017); see also *Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC*, 797 F.3d 160, 190-91 (2d Cir. 2015) (denial of leave to amend was an abuse of discretion when the plaintiff did not have “the benefit of a ruling” to identify “the precise defects” in the complaint).

Thank you for your consideration of these issues. We are happy to address any questions the Court may have.

Respectfully submitted,

Richard W. Gonnello

cc: All Counsel of Record (via ECF)

Motion granted. In view, however, of the fact that plaintiffs already have had the Court’s decision for well over a month, they should assume that any further extension would not likely be granted.

SO ORDERED.

Lewis A. Kaplan
United States District Judge

4/20/2020